



Agenda Date: 11/20/01

Agenda Item: IIIB

STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

CABLE TELEVISION

IN THE MATTER OF THE PETITION OF)
COMCAST CABLEVISION OF SOUTH)
JERSEY, INC. FOR A CERTIFICATE OF)
APPROVAL TO CONTINUE TO CONSTRUCT,)
OPERATE AND MAINTAIN A CABLE)
TELEVISION SYSTEM IN AND FOR THE CITY)
OF BRIGANTINE, COUNTY OF ATLANTIC,)
STATE OF NEW JERSEY)

RENEWAL CERTIFICATE OF APPROVAL

DOCKET NO. CE00120969

Stryker, Tams & Dill, Newark, New Jersey, by Janice Manganello, Esq., for the Petitioner.

City Clerk, City of Brigantine, New Jersey, by Lois M. O'Connor, for the City.

BY THE BOARD:

On February 27, 1975, the Board granted Atlantic Coast TV Cable Corporation ("Atlantic") a Certificate of Approval in Docket No. 7411C-6057 for the construction, operation and maintenance of a cable television system in the City of Brigantine ("City"). On December 19, 1983, the Board approved the transfer of the Certificate of Approval from Atlantic to Cablentertainment of New Jersey-VI ("Cablentertainment") in Docket No. 839C-7028. In a subsequent transfer approved December 18, 1986 by the Board, Sammons Communications of New Jersey, Inc. ("Sammons") acquired the Certificate of Approval for the City from Cablentertainment in Docket No. CM86101185. On January 30, 1991, the Board granted Sammons a Renewal Certificate of Approval for the City, in Docket No. CE90040269. On March 1, 1996, the Board approved the sale of Sammons to Lenfest Atlantic, Inc. d/b/a Suburban Cable ("Lenfest") in Docket No. CM95080358. On January 18, 2000, the Board approved the merger of Lenfest and Comcast Cable Communications, Inc. in Docket No. CM99110855. On or about September 13, 2000, Lenfest formally changed its name to Comcast Cablevision of South Jersey, Inc. ("Petitioner"). Although the Petitioner's Certificate expired on February 27, 2000, it is authorized to continue to provide cable television service to the City pursuant to N.J.S.A. 48:5A-25.

The Petitioner's predecessor filed an application for the renewal of its municipal consent with the City on March 31, 1999, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. The City, after public hearings, adopted an ordinance granting renewal of municipal consent to the Petitioner on October 4, 2000. The Petitioner formally accepted the terms and conditions of the ordinance on October 25, 2000, in accordance with N.J.S.A. 48:5A-24.

On December 13, 2000, pursuant to N.J.S.A. 48:5A-16, the Petitioner filed with the Board for a renewal of its Certificate of Approval for the City. The Board has reviewed the application for municipal consent, the petition for a Renewal Certificate of Approval and the municipal consent

ordinance. Based upon this review and the recommendation of the Office of Cable Television, the Board HEREBY FINDS the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Certificate of Approval. Further, these qualifications were reviewed by the City in conjunction with the municipal consent process. See N.J.S.A. 48:5A-22 to 29 and N.J.A.C. 14:18-13.
2. The design and technical specifications of the system shall ensure that the Petitioner provides safe, adequate and proper service.
3. The Petitioner has represented that all previously required construction within the franchise territory is complete.
4. The franchise period as stated in the ordinance is fifteen years from the date of issuance of this Certificate with an automatic renewal provision for a term of six years thereafter pursuant to N.J.S.A. 48: 5A-19 and -25. The Board finds these periods to be of reasonable duration.
5. The Petitioner shall provide service along any public right-of-way to any residential area of the franchise territory at tariffed rates for standard and non-standard installation. In all other circumstances, the Petitioner shall utilize the line extension policy ("LEP") attached to the Certificate (Appendix "I"). The minimum homes per mile ("HPM") figure is 35.
6. Within 48 months of the issuance of this Certificate, the Petitioner shall upgrade the system. The upgraded system shall be capable of delivering both analog and digital television signals with sufficient bandwidth to deliver a minimum of sixty channels of analog and one hundred channels of digital programming.
7. The Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain informational tariffs for unregulated service rates, and promptly file any revisions thereto.
8. Pursuant to N.J.S.A. 48:5A-26(b), the ordinance specifies a complaint officer. In this case, it is the Office of Cable Television. All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5.
9. The Petitioner shall maintain a local business office or agent for the purpose of receiving, investigating and resolving complaints. Currently, the local office serving this provision is located at 901 West Leeds Avenue in the City of Absecon.
10. The franchise fee to be paid to the City is specified to be 2% of the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the City. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.
11. The Petitioner shall provide public, educational and governmental ("PEG") access services, technical support, training and facilities as described in the application and the

municipal consent ordinance. Currently, the Petitioner provides one channel for Governmental access and one channel for Educational access.

12. Upon request, subject to the provisions of the ordinance, the Petitioner shall make available a non-commercial governmental/educational access channel for use by the City and to the City's Public School District at no cost. However, the cost and expense of production and program development shall be borne by the parties utilizing the channel. The Petitioner shall only be required to provide limited technical assistance should transmission problems arise.
13. At its sole cost, the Petitioner shall install a return path in one municipal building designated by the City Council, which shall be capable of live cablecast of public meetings. Upon completion of the upgrade, at its sole cost, the Petitioner shall install a return path in one school district building designated by the City Council, which shall be capable of permitting live cablecasting of public events. Until the upgrade is completed, the Petitioner shall provide a connection from the school district site to the municipal cablecast site to provide temporary, shared access on the Government Access Channel.
14. Upon completion of the upgrade, and upon request of the City Council, the Petitioner shall provide and maintain channel capacity for: 1) a dedicated governmental access channel; and 2) a dedicated educational access channel. The Petitioner shall provide these access channels only when the existing access channels reach a programming saturation point as described in the ordinance.
15. Within three months of the adoption of the municipal consent ordinance, the Petitioner shall provide the City with a capital contribution in the amount of \$30,000.00 for the purchase of audio or video production equipment or to be otherwise used, as the City deems appropriate for cable-related purposes. Within three months of the issuance of the Certificate of Approval by the Board or within one year of adoption of the municipal consent ordinance, whichever comes first, the Petitioner agrees to pay the City a second capital contribution of \$30,000.00 to be utilized as the City deems appropriate for the cable-related capital needs of the City or the School District. The Office of Cable Television has confirmed that the above payments have been made to the City.
16. The Petitioner shall provide upon request, at no charge, the installation and basic monthly service to one outlet to the following: a) City Hall; b) each police and fire station; c) each public school building; and d) each public library, within the City, provided it is located within 150 feet of the active cable distribution plant.
17. Within six months after such service is available in the City, and upon request, the Petitioner shall provide free basic Internet access service, via high-speed modem, to one non-networked personal computer in each public school building and each public library in the City, provided it is located within 150 feet of the active distribution system.

Based upon these findings, the Board HEREBY CONCLUDES that, pursuant to N.J.S.A. 48:5A-17(a) and 28(c), the Petitioner has sufficient financial and technical capacity and meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is HEREBY ISSUED this Renewal Certificate of Approval as evidence of Petitioner's authority to construct and operate a cable television system within the entirety of the City.

This Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein.

The Petitioner shall adhere to the operating standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. Section 76.1 et seq. Any modifications to the provisions thereof shall be incorporated into this Certificate. Additionally and more specifically, the Petitioner shall adhere to the technical standards of 47 C.F.R. Part 76, Subpart K.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or the Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire fifteen years from the date of the Order.

DATED: November 20, 2001

BOARD OF PUBLIC UTILITIES
BY:

(signed)

CONNIE O. HUGHES
PRESIDENT

(signed)

FREDERICK F. BUTLER
COMMISSIONER

(signed)

CAROL J. MURPHY
COMMISSIONER

ATTEST:

(signed)

HENRY M. OGDEN
ACTING BOARD SECRETARY